IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

FIRST APPEAL NO.1698 OF 2005

IN

L.A.R.NO.57 OF 1991

The State of Maharashtra, .. Appellant.

Vs

1. Chandrabhaga Vithal Korlekar,
since deceased, through his L.Rs
A) shri Rajan Ksrishnarao Desai
and ors. .. Respondents

Mr R.S.Khadapkar, AGP for the appellant.
Mr Rajiv Patil with Ms Seema Sarnaik, for R.No.1A
Mr C.M.Lokesh, for the MSRTC.

CORAM : SMT RANJANA DESAI & D.B.BHOSALE,JJ.

DATE : 13.1.2006.

PC:

1. The learned counsel appearing for the parties state that this appeal can be disposed of in terms of the order dated 5.5.2004 passed by the Division Bench presided over by F.I.Rebello, J. in First Appeal No.286 of 2001 preferred against the Judgment and Award dated 2.5.1997 passed by the Jt.District Judge, Raigad-Alibag. The Division Bench passed that order on the basis of the order dated 29.4.2004 in First Appeal No.404 of 1998 involving

the land from same locality. The land reference involved in the instant Appeal was also decided by the said Judgment and Award dated 2.5.1997. In view thereof, the learned counsel have agreed for disposal of this appeal in the following terms.

2. By the same notification, which is subject matter of First Apepal No.404 of 1998, the appellant's land was also acquired. A common award came to be passed by the Reference court. By a Judgment of April 29, 2004, the Division Bench partly allowed the appeal filed by the State and fixed market value at a flat rate of Rs.50/- per sq.mtr.

3. For the reasons set out while disposing of F.A.No.404 of 1998, the appeal is partly allowed. The market value of the acquired land is fixed at Rs.50/- per sq.mtr along with all consequential benefits including u/s 23(1)(A) of the Land Acquisition Act.

4. Consequent to any order if the claimants have withdrawn the compensation deposited by the State, they will have to bring back the amount excess, if any, after it is calculated in terms of the order of this Court. However, if the claimants had withdrawn any amount more than what they were entitled to, that amount returned back with interest at the rate of 6% p.a. from the date of the judgment till refund.

5. In the circumstances of the case, no order as to costs. The Appeal along with application accordingly disposed of.

6. All authorities including the Reference Court to act on the authenticated copy of this order.

7. The writ to go immediately.

(D.B.BHOSALE, J.) **(SMT.RANJANA DESAI, J.)**